

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Geneseo Telephone Company,)	
Cambridge Telephone Company, and)	
Henry County Telephone Company)	Docket No. 11-0210
)	
Petition for Universal Service.)	
)	CONSOLIDATED
Illinois Independent Telephone)	
Association)	
)	
Petition to update the Section 13-301(1)(d))	Docket No. 11-0211
Illinois Universal Service Fund and to)	
Implement Intrastate Switched Access)	
Charge reform as described herein and for)	
other relief.)	

**CABLE TELEVISION & COMMUNICATIONS ASSOCIATION
OF ILLINOIS INITIAL BRIEF**

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Michael W. Ward
John F. Ward, Jr.
Ward & Ward, P.C.
One Rotary Center
1560 Sherman Avenue
Suite 805
Evanston, IL 60201
224-420-9766
mward@dnsys.com
jward@levelerllc.com

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**CABLE TELEVISION & COMMUNICATIONS ASSOCIATION
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Now comes the Cable Television and Communications Association of Illinois, on behalf of its members and affiliates that provide competitive local exchange services in Illinois (CT&C)¹, pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (Commission) and the schedule set by the Administrative Law Judge and respectfully files the Cable Television & Communications Association of Illinois Initial Brief.

CT&C addresses the limited issue of the Illinois Independent Telephone Association (IITA) and Illinois Bell Telephone Company (AT&T Illinois) proposal to require non-customers throughout Illinois to pay an additional \$2,881,511 to the Illinois universal service fund as a

¹ The position submitted by CT&C does not include the CT&C members that are also members or affiliates of members of the Illinois Independent Telephone Association. These CT&C members include Moultrie Telecommunications, Inc., Madison Communications, Inc., Adams Telecom, Inc., HomeTel. Entertainment, Inc., and Cass Cable TV, Inc./Greene County Partners, Inc.

result of IITA members voluntarily reducing their intrastate originating access rates to AT&T Illinois and other IITA customers. This proposal contradicts the positions taken by both the Federal Communications Commission (FCC) and the Illinois General Assembly, is not based on sound public policy, and is ill-timed. Rejecting the provisions of the joint Stipulation to shift the burden of the originating access revenues will cause no harm to IITA members, will be consistent with the approach taken by the FCC and the General Assembly, and will benefit consumers. CT&C respectfully submits that the Commission should reject the IITA/AT&T Illinois proposal to increase the IUSF by \$2,881,511 to recover a reduction in revenues from the IITA members' reduction in intrastate originating access rates. CT&C takes no position on the other IITA request for an increase in the Illinois universal service fund regarding basic elements.

I. The IITA/AT&T Illinois Stipulation Is To Shift The Originating Access Revenue Burden Onto Non-Customer Consumers.

Commission Docket 11-0211 originated from the petition of the IITA on behalf of some of its members, and with the stipulated agreement of AT&T Illinois, to increase the amount of support IITA members receive from the Illinois universal service fund (IUSF). These members are collectively receiving \$9,921,691² in IUSF support to maintain an affordable rate of \$20.39 that the Commission set in 2002 in the Second Interim Order on Rehearing in Commission Docket 000233 & 00-0335 (consol.). IITA First Amended Petition, ¶¶ 6, 17. Due to changes in costs and revenues over the past decade, IITA petitioned for an increase in the annual IUSF contribution to \$15,724,282, or an increase of \$5,802,591, to support the basic elements. IITA

² This figure includes \$9,858,975 (plus administrative expenses) approved in Docket 00-0233 & 00-0335 (consol.) Second Interim Order on Remand, and \$62,716 granted to Alhambra-Grantfork Telephone Company in Docket 04-0354. IITA First Amended Petition, ¶ 6.

First Amended Petition, ¶ 19.³ As above stated, CT&C takes no position on this IITA request for an increase in the Illinois universal service fund regarding the basic elements.

In addition to the \$5,802,591 adjustment for increasing the IUSF for basic elements, IITA stipulated with AT&T Illinois to request an additional increase of \$10,461,934 for the purpose of reducing the intrastate access charges that IITA members charge AT&T Illinois and other carriers that use IITA members' intrastate originating and terminating access services. IITA First Amended Petition, ¶ 24. Through these rate reductions, IITA members' intrastate access rates would be capped at no greater than the IITA member's interstate access rates. IITA and AT&T Illinois agreed that a third party, Illinois consumers, who do not use any services of the IITA members, should replace these revenues through an increase in additional IUSF fees. IITA First Amended Petition, ¶¶ 20, 24 - 25. Collectively, this would increase the IUSF from \$9,921,691 to \$26,186,216 annually. IITA First Amended Petition, ¶ 28.

Meanwhile, the FCC was simultaneously conducting its own investigation of the federal universal service fund and intercarrier compensation rates, including interstate and intrastate originating and terminating access fees.⁴ IITA and AT&T Illinois recognized that the FCC's determinations could significantly impact both the IUSF and the intrastate intercarrier compensation structure. However, they requested that the Commission proceed to implement the

³ In the testimony submitted at hearing, this amount has been adjusted in response to issues raised by other parties. These changes are collateral to the point being addressed by CT&C. CT&C takes no position on the adjusted request for an increase of the IUSF contribution to support the basic elements. For simplicity, and only for the purpose of relative comparison, CT&C will reference the figures proposed in the IITA First Amended Petition for the basic elements.

⁴ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, 4560-61 (2011) (*USF/ICC Transformation NPRM*).

Petition's proposals prior to the FCC's restructuring, allowing that the Commission could again restructure the IUSF after the FCC acts. IITA First Amended Petition, ¶ 12.

The FCC issued its determination late last year, restructuring the federal universal service fund and taking jurisdiction over all interstate and intrastate originating and terminating charges, prior to the completion of the filing of testimony in the instant docket.⁵ As a consequence of the FCC action, the parties needed to change their proposals to address the FCC's *USF/ICC Transformation Order*. In subsequent testimony, the IITA and AT&T Illinois eliminated their proposal for modifying intrastate terminating access fees and for recovering the revenue reduction from the IUSF. This eliminated nearly half of the total requested IUSF fee increases, or \$7,580,423.⁶

Through the FCC's assertion of jurisdiction over all interstate and intrastate access fees, the FCC is proceeding to determine both a revised structure of the intercarrier compensation regime and the transitional steps needed to achieve this transformation. See *USF/ICC Transformation Order*, ¶¶ 2 – 42, 760 - 781. Despite the FCC's ongoing transformational efforts, IITA and AT&T Illinois continue to urge the Commission to proceed with the Petition's stipulated proposal for intrastate originating access rates, to flash cut these rates to mirror interstate originating access rates and to impose an additional \$2,881,511 in IUSF fees on Illinois consumers. See IITA Exhibit 3.3 (Schoonmaker).

⁵ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform — Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011)(*USF/ICC Transformation Order*); *pets. for review pending sub nom. In re: FCC*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

⁶ Compare the Petition's request for an additional increase in the IUSF of \$10,461,934 to replace the proposed reduction in intrastate access revenues (IITA First Amended Petition, ¶ 24) with the revised request for an additional increase in the IUSF of \$2,881,511 (IITA Exhibit 3.3 (Schoonmaker)) to replace a now proposed reduction in intrastate originating access revenues only after the FCC's *USF/ICC Transformation Order*.

This is a similar, albeit narrower, version of the same proposal designed prior to the FCC's *USF/ICC Transformation Order*. It stands on the false foundation that the parties' original stipulation is inconsistent only with the FCC's transformation plan for intrastate terminating access but not with the FCC's transition plan for intrastate originating access. But the IITA and AT&T Illinois' amended proposal to immediately reduce intrastate originating access rates to mirror the interstate originating access rates and to add \$2,881,511 to the IUSF also contravenes the FCC's transformation approach, the policy adopted by the Illinois General Assembly, and sound public policy. The Commission should reject their proposal to shift the revenue burden of \$2,881,511 onto non-customer consumers through the IUSF.

II. The IITA/AT&T Illinois Proposal Is Contrary To The Approach Taken By The FCC, The Illinois General Assembly, And Public Policy.

In the *USF/ICC Transformation Order* the FCC initiated a national plan to advance both universal service and intercarrier compensation reform. In so doing, the FCC asserted its jurisdiction over both intrastate and interstate intercarrier compensation, designing a program for transforming access charges that is coordinated with its goals for universal service. This program addresses the FCC's transitional approach to both originating and terminating access charges, including revenue recovery, and recognizes that additional requirements will be forthcoming. The IITA/AT&T Illinois proposal to flash cut intrastate originating access charges now, and to burden consumers with an assumption of the projected lost revenues through an increase to the IUSF, contravenes the FCC's transitional plan and is inconsistent with the design and principles established in the FCC's approach, the approach adopted by the General Assembly, and sound public policy.

A. The FCC Transformation Plan Provides For The Interim Treatment Of Intrastate Originating Access In A Manner Contrary To The IITA/AT&T Illinois Proposal.

The FCC has developed a comprehensive approach to promoting universal service and intercarrier compensation reform, carefully coordinating and balancing the interaction between them.

The *USF/ICC Transformation Order* represents a careful balancing of policy goals, equities, and budgetary constraints. This balance was required in order to advance the fundamental goals of universal service and intercarrier compensation reform within a defined budget while simultaneously providing sufficient transitions for stakeholders to adapt.

USF/ICC Second Order on Reconsideration, ¶ 1.⁷

To enable it to design and implement this transformation, the FCC reviewed the scope of its authority to proceed. The FCC determined that it had jurisdiction over all access traffic, interstate and intrastate, including originating and terminating access, pursuant to Sections 201 and 251 of the Federal Communications Act, 47 U.S.C. §§ 201, 251. *USF/ICC Transformation Order*, ¶¶ 760, 762, 764 - 765. It proceeded to hold that the best policy for ensuring universal service and intercarrier compensation reform was through a national uniform framework. As part of that framework, the FCC announced that it would be adopting bill-and-keep as the end

⁷ *In the Matter of Connect America Fund: A National Broadband Plan for Our Future Establishing Just and Reasonable Rates for Local Exchange Carriers High-Cost Universal Service Support Developing a Unified Intercarrier Compensation Regime Federal-State Joint Board on Universal Service Lifeline and Link-Up Universal Service Reform - Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, FCC 12-47, Second Order on Reconsideration, 27 FCC Rcd 4648 (2012), ¶ 1 (*USF/ICC Second Order on Reconsideration*).

state for all intercarrier compensation. *Id.*, ¶ 741. Under this methodology each carrier would be responsible for the costs of its own network and would eliminate the access charge regime.

To accomplish this transformation, the FCC reviewed how to best transition from the current intercarrier compensation practices to the national goal it was setting. It again determined that a uniform national approach was needed to address both the elimination of the access charges and the issue of revenue recovery. This was preferable to proceeding by individual state programs that could impede the reforms set by the FCC.

790. We now conclude that a uniform, national framework for the transition of intercarrier compensation to bill-and-keep, with an accompanying federal recovery mechanism, best advances our policy goals of accelerating the migration to all IP networks, facilitating IP-to-IP interconnection, and promoting deployment of new broadband networks by providing certainty and predictability to carriers and investors. *Although states will not set the transition for intrastate rates under this approach*, we do follow the State Member's proposal regarding recovery coming from the federal jurisdiction. *Doing so takes a potentially large financial burden away from states.* ...

794. Although several states have sought to reform intrastate access rates, significant challenges remain that could impede our comprehensive reform efforts absent a uniform, national transition. ... The lack of certainty and predictability for the industry without a uniform framework is a significant concern. Carriers and investors need predictability to make investment and deployment decisions and lack of certainty regarding intrastate access rates or recovery hampers these efforts. In addition some parties warned that it would be “extremely costly” to participate in “the multitude” of state commission proceedings that would follow from an approach relying on dozens of different state transitions and recovery frameworks.

795. In addition, as noted above, adopting a uniform federal transition and recovery mechanism will free states from potentially significant financial burdens. Our recovery mechanism will provide carriers with recovery for reductions to eligible interstate *and* intrastate revenue. *As a result, states will not be required to bear the burden of establishing and funding state recovery mechanisms for intrastate access reductions, while states will continue to play a role in implementation.* ...

Id., ¶¶ 790, 794 – 795 (some emphasis added).

By moving in a coordinated manner to address the intercarrier compensation for all traffic, the FCC found this would ensure there would be no disruption in the transition to more

efficient forms of all IP networks. *Id.*, ¶ 793. Transforming intercarrier compensation requires a transition plan that would balance the reduction of access charges and any revenue recovery in coordination with supporting the policy goals of the national broadband plan and universal service. Although it would address both originating and terminating access compensation, the FCC determined this balance necessitated taking separate approaches, but not different end results.

Balancing various considerations, the FCC decided to transition the reform of access rates for originating access and terminating access differently. For terminating access, all intrastate and interstate terminating access rates would be capped and transitioned over a specified period of years to the bill and keep methodology. *Id.*, ¶¶ 736 - 805. For originating access, all interstate originating access rates would be capped, intrastate originating access rates would be capped for price cap carriers only, while the intrastate originating access for rate-of-return carriers would not be capped, and the FCC would study the impact of the transition plan before requiring any reduction in originating access rates. *Id.*, ¶¶ 739, 805, 818, 922.⁸ Through this design the most pressing problems would be addressed without overburdening consumers through the recovery mechanism.

Terminating traffic involved the most acute intercarrier compensation problems. By deliberately limiting the initial reduction in access rates to only terminating access at this time the FCC would be able to address the majority of the arbitrage problems while restricting the size of the access replacement mechanism.

... In brief, our transition plan first focuses on the transition for terminating traffic, which is where the most acute intercarrier compensation problems, such as arbitrage, currently arise. We believe that limiting reductions at this time to terminating access rates will help address the majority of arbitrage and manage the size of the access replacement

⁸ As one of the submitters of the ABC Plan, AT&T urged the FCC to find that originating access rates should be retained for the interim. *USF/ICC Transformation Order*, ¶ 817, fn. 1543. CT&C Cross Ex. 1.0 (Bax), pp. 26 – 28.

mechanism. We also take measures today to start reforming other elements as well by capping all interstate switched access rates in effect as of the effective date of the rules, including originating access and all transport rates. ...

Id., ¶ 800.

The FCC did not fail to consider the reformation of originating access. It concluded that originating access should receive a different transitional approach out of a concern for reducing the disruptive effect the overall changes would have on the carriers, minimizing the revenue recovery burden imposed on consumers, promoting the goal of universal service, and the need to study the impact the overall intercarrier compensation transformation would have. This need to balance the reformation of the intercarrier compensation structure, by transitioning access rates to bill-and-keep, with the burdens imposed through any corresponding revenue replacement is at the heart of the FCC's transition plan.

The FCC included the treatment of originating access in the transition plan with these interests in mind. It found that that “limiting reform to terminating access charges at this time minimizes the burden intercarrier compensation reform will place on consumers and will help manage the size of the access replacement mechanism adopted herein.” Id., ¶ 739. Addressing originating access, the FCC specifically intended that during the transition period carriers would continue with the present collection of intercarrier compensation for originating access. This is designed to provide continued revenue flows—“including the underlying implicit subsidies”—during the transition although such rates ultimately will reach bill-and-keep. Id., ¶¶ 849, 928.

The FCC treatment of intrastate originating access rates for rate-of-return carriers, such as the IITA members, was very specific. At this point in the transition, the FCC not only refrained from reducing intrastate originating access rates, but decided to not even cap their

intrastate originating access rates due to the burden that could cause on the universal service fund.

805. The transition imposes a cap on originating intrastate access charges for price cap carriers at current rates as of the effective date of the rules. The transition does not cap originating intrastate access charges for rate-of-return carriers. Rate-of-return carriers suggested that it would not be viable for them to reduce terminating switched rates, while at the same time reducing originating rates without overburdening the Universal Service Fund. In the meantime, rate-of-return carriers indicate that the wholesale long distance market will constrain originating rates. *Given our commitment to control the size of the CAF and minimize burdens on consumers, we do not cap intrastate originating access charges for rate-of-return carriers at this time.* As noted above, we have placed priority on reform of terminating access charges and we are mindful of the compromises that must be made to accomplish meaningful reform in a measured and timely manner. In the FNPRM, we seek comment on the transition of *all* originating access charges to bill-and-keep, including originating intrastate access charges for rate-of-return carriers.

Id., ¶ 805 (some emphasis added).

Controlling the size and means of the revenue recovery needed to offset the impact of the transformation is a fundamental element to the transition plan. Fiscal responsibility is one of the four principles upon which the USF/ICC reform process is based. It recognizes that “American consumers and businesses ultimately pay for USF, and that if it grows too large this contribution burden may undermine the benefits of the program by discouraging adoption of communications services.” Id., ¶ 11. Similarly, one of the performance goals for universal service is to minimize the overall burden of universal service contribution on consumers and businesses who ultimately pay to support the fund. Id., ¶ 57.

In balancing the policy goals, equities and budgetary constraints, the transition plan addressed the most pressing needs and the resulting burdens of the transition. Prioritizing terminating access as the most acute problem, the FCC recognized that transforming terminating access would cause both a disruption to carriers’ traditional revenue flows and a burden on

consumers. In managing the various interests, the FCC decided to not also disrupt the carrier's revenue flows from originating access or to add any lost revenues from originating access reductions to the consumers' universal service burden. This is the balance struck by the FCC's reform process.

The IITA/AT&T Illinois proposal to flash cut intrastate originating access rates for the IITA rate-of-return carriers and to maintain revenue neutrality by adding \$2,881,511 to the IUSF was made before the FCC issued its national plan for universal service and intercarrier compensation reform. In the *USF/ICC Reformation Order*, the FCC found in the careful balance it struck that originating access would not be reduced in the interim. It further rejected as a matter of policy both the flash cutting of access rates and the position that intercarrier compensation reform should be revenue neutral. *USF/ICC Transformation Order*, ¶¶ 35, 38, 802. Yet, the IITA/AT&T Illinois proposal for intrastate originating access requests the Commission to ignore the national approach and to impose a contrary plan developed prior to the input of the FCC's order.

The Commission should reject the IITA/AT&T Illinois proposal to add \$2,881,511 to the IUSF as a result of reducing intrastate originating access rates to mirror interstate originating access rates. The FCC correctly determined that the local carrier will need those revenues during the intercarrier compensation transition and that the burden of generating these revenues should not now be shifted to consumers via the universal service fund.

B. The IITA/AT&T Illinois Proposal Includes Elements Rejected By The FCC.

As noted above, the IITA/AT&T Illinois originating access proposal asks this Commission to proceed counter to the treatment of intrastate originating access as found in the *USF/ICC Transformation Order*. They originally proposed that IITA members' intrastate originating and terminating access rates should be flash cut to mirror the carrier's interstate rates and that any projected lost revenues should be recovered through the IUSF. Even after the issuance of the FCC's plan, they continue to promote this approach for intrastate originating access. Not only is it inconsistent with the FCC's decision on the treatment of intrastate originating access rates for rate-of-return carriers during the transition, but it conflicts with the fundamentals established by the FCC.

Under the IITA/AT&T Illinois proposal, intrastate originating access rates would be flash cut to no greater than the carrier's interstate originating access rates on the first day of the calendar month following the entry of the Commission's order in this docket. IITA First Amended Petition, ¶ 25. But the FCC determined that the flash cutting of access rates would cause significant market disruption to the detriment of consumers and carriers alike. Instead, the FCC found that a gradual transitional approach to access rate reform would be necessary. *USF/ICC Transformation Order*, ¶¶ 35, 802, 809 – 810, 870. A gradual transition is needed to reform the current structure in a manner that would least disrupt the local carrier, least burden the consumer, and allow time to make the adjustments and to employ the recovery mechanisms developed by the FCC. See CT&C Ex. 1.0, pp. 7 – 10 (Wolfe). However the IITA/AT&T Illinois proposal has no transitional schedule. The carriers have agreed to flash cut the proposed

rate changes and to simply shift the burden onto consumers through the IUSF. The FCC has not adopted this approach, nor should the Commission.

The IITA/AT&T Illinois proposal is also founded on the basis that the reduction in intrastate originating access rates would be revenue neutral. IITA First Amended Petition, ¶¶ 22 - 24. For this purpose the carriers seek an increase in the IUSF of \$2,881,511. But the FCC has expressly rejected the proposition that intercarrier compensation reform should be revenue neutral. *USF/ICC Transformation Order*, ¶¶ 38, 848, 924. See also CT&C Ex. 1.0, pp. 8 – 10 (Wolfe).

The FCC has intentionally designed a transformation plan to minimize the burden on consumers and to avoid increasing the universal service fund as a place to simply transfer the burden. Carrier reform of the intercarrier compensation should look first to their subscribers for recovery of the costs of the network and only to universal service support when necessary. *USF/ICC Transformation Order*, ¶ 34. A fundamental problem with the intercarrier compensation regime is that it allows carriers to shift the recovery of costs to other providers because subscribers do not get accurate pricing signals.

Voluntarily reducing intrastate originating access rates to carrier customers, simply to shift the revenue recovery to non-customers throughout Illinois through the IUSF, does not address the subsidy issue and further exacerbates the inefficiencies that access reform purports to address. It does not produce the price signaling efficiencies pursued by the FCC. Charging consumers in Rockford, Springfield, or Harvey for phone services in Harrisonville or Livingston will not bring about the efficiencies that the FCC's reformation of access fees intends. Those consumers have no choice in or ability to affect the cost of the telephone services they are being requested to subsidize. The IITA/AT&T Illinois proposal does not address subsidies in any

meaningful way. It merely shifts the burden to consumers in a way contrary to the policy of the FCC.

The IITA/AT&T Illinois proposal contradicts the universal service and intercarrier compensation approach adopted by the FCC in its “careful balancing of policy goals, equities, and budgetary constraints.” The Commission should not undermine the FCC’s efforts. The IITA/AT&T Illinois proposal for intrastate originating access should be denied.

C. The IITA/AT&T Illinois Access Charge Proposal Is Inconsistent With The Public Policy Of The General Assembly.

In the 2010 passage of Public Act 96-927 the Illinois General Assembly specifically addressed the issue of intrastate switched access rate reform in Section 13-900.2. 220 ILCS 5/13-900.2. Therein the legislature established a plan for the structuring of intrastate switched access for all carriers throughout Illinois. Section 13-900.2 provided that all carriers, other than Electing Providers and incumbent local exchange carriers serving fewer than 35,000 lines, should reduce their intrastate switched access rates to no higher than the carrier’s rates for interstate switched access services. This reduction was to be gradually transitioned over a two year period. 220 ILCS 5/13-900.2.

An Electing Provider was also required to reduce its intrastate switched access rates to rates no higher than its interstate switched access rates. This reduction was to be gradually transitioned in over four installments, the last of which was required to occur three years after the passage of the Act. 220 ILCS 5/13-900.2, 13-506.2 (g).

However, for incumbent local exchange carriers serving fewer than 35,000 lines, which are the members of the IITA, the Illinois legislature specifically decided not to require that their

intrastate switched access rates be reduced to their interstate switched access rates. 220 ILCS 5/13-900.2(c). The policy of the General Assembly is that local telephone companies of less than 35,000 lines may continue to charge intrastate access rates higher than those for interstate access. As in the FCC's *USF/ICC Transformation Order*, Section 13-900.2 recognized a distinction for these smaller local telephone companies to address their revenue needs that took precedence over the general policy to reduce intrastate access rates.

None of the other Illinois carriers were provided a revenue recovery mechanism by the 2010 Act. They were simply required to transition their rates gradually over a period of years. These revenue reductions are not being passed on to Illinois consumers, customers or non-customers, through any increase in the IUSF, but are being absorbed by the carriers. The General Assembly did not provide for any reduction of access rates to correspond with simply shifting the revenue recovery to other mandated subsidies to be imposed on Illinois consumers. The legislature recognized the revenue needs of the small local companies and designedly exempted them from the requirement to mirror interstate rates.

Even where the statute requires a reduction in intrastate access fees, it recognizes the necessity of phasing in those reductions gradually over a period of time. This accommodates the same needs found by the FCC to reduce the disruption to the carriers, allowing them time to adjust to the changes. This gradual transition also minimizes the burdens on the consumers by not requiring a revenue neutral shifting of the subsidies to the USF. See *USF/ICC Transformation Order*, ¶¶ 57, 739. However, the IITA/AT&T Illinois proposal lacks the gradual transition needed for the balanced intrastate access rate reform found in the FCC order or in the Illinois Act.

The IITA/AT&T Illinois proposal does not provide for the balanced approach for the intrastate access rate reformation as determined by the Illinois General Assembly or the FCC. It does not constructively address the revenue needs of incumbent local exchange carriers of less than 35,000 lines in the event on reducing intrastate originating access rates to no greater than the interstate rates without impermissibly shifting that burden onto consumers. Nor does it propose a balanced approach like those provided by the Illinois General Assembly and the FCC. The Commission should reject this aspect of the IITA Petition.

D. It Is Premature To Restructure Originating Access When The FCC Will Be Issuing Further Requirements.

IITA/AT&T Illinois suggest that their proposal for intrastate originating access is in effect an interim approach subject to any changes later determined by the FCC. But the FCC already has established an interim plan for originating access in the *USF/ICC Transformation Order*. It recognized that the order does not fully complete the transition of originating access but provides an interim basis for the transition. *USF/ICC Transformation Order*, ¶¶ 817 – 818, 1298. While balancing the policy concerns for the national broadband plan, universal service, intercarrier compensation reform, originating and terminating access, disruption to the carriers and minimizing the burden to consumers, the FCC recognized that it needed further data and study to achieve a uniform, national framework for intercarrier compensation with an accompanying federal recovery mechanism. *Id.*, ¶ 922.

Therefore, it issued an FNPRM to address numerous issues concerning the originating access transformation in coordination with the other policy objectives. See *Id.*, ¶¶ 1298 – 1305. Neither the IITA/AT&T Illinois intrastate originating access proposal nor the record in this

proceeding provides the data or answers to the FCC's issues for designing a final transition for originating access. In contrast to the studied balance provided in the FCC's order for the interim transition for originating access, the IITA/AT&T Illinois proposal offers nothing other than an agreement between those two parties.

IITA/AT&T Illinois urge the Commission to adopt its proposal on the basis that the Commission may restructure it when the FCC addresses originating access further. That is the same position that the parties took in the original petition about proceeding on both originating and terminating access fees without awaiting the issuance of the *USF/ICC Transformation Order*. Had the Commission granted the proposal at that time it would have added an additional \$7,580,423 in intrastate terminating access fees to the IUSF only to now be in the position of needing to rescind that increase, or, worse yet, unnecessarily leaving Illinois consumers with that burden.

Rather than continuously changing the intrastate access fee structure, the Commission should proceed according to the national interim plan established by the *USF/ICC Transformation Order*. This is the prudent course of action adopted by other state commissions. When addressing a petition to proceed with its own restructuring of intrastate originating access rates, the North Carolina Utility Commission recognized that the FCC has asserted jurisdiction over both interstate and intrastate access and is presently preparing a nationwide uniform framework to be employed by the states. Therefore, the NCUC concluded that it would be rash to the state commission to take any further steps at this time regarding intrastate originating access.

After reviewing the comments filed, the Commission concludes that it is premature to take any further action concerning originating intrastate access charges at this time. As noted by several commenters, the FCC concluded in its *USF/ICC Transformation Order* that **all** telecommunications traffic, both local and traditional interstate and intrastate

access traffic, falls under its authority to implement the requirements of Section 251(b)(5) of TA96. The FCC is considering the issue of the appropriate transition of originating intrastate access charges to the bill-and-keep pricing methodology in its Further Notice of Proposed Rulemaking. Therefore, it would be rash for this Commission to take any further steps at this point in time to address the issue of originating access charges.

In the Matter of Petition of Sprint to Reduce Intrastate Switched Access Rates of Incumbent Local Exchange Carriers in North Carolina, North Carolina Utility Commission, Docket No. P-100, SUB 167, Order Holding Docket In Abeyance Pending Further Commission Order, July 10, 2012, 2012 WL 2878598 (N.C.U.C.), p. 16 (emphasis in original).

The Pennsylvania Public Utility Commission had earlier reached the same conclusion in addressing intrastate originating access rate reform.

In view of the drastic impacts that the *FCC Order* has had on the measured intrastate access reforms adopted with our July 18, 2011 Order, and in view of the further FCC actions contemplated in the area of intercarrier compensation for originating traffic, we are reluctant at this time to engage in any actions affecting intrastate switched carrier access rates for originating traffic.

Re The Pennsylvania Universal Service Fund, Interim Order 00040105, Case 2009-2098380, et al., M-2012-2291824, Pennsylvania Public Utility Commission, May 10, 2012, 2012 WL 1744229 (Pa.P.U.C.), p. 3.

CT&C submits that this Commission should similarly decline to expend the Commission and the parties' resources on proposed changes to the intrastate originating access regime while the FCC is developing a nationwide uniform plan that will be binding on the state. The Commission will be addressing the intrastate originating access reform when the FCC issues its new rules regarding intrastate originating access charges for rate-of-return carriers and the FCC determined revenue recovery mechanisms. The IITA/ AT&T proposal for intrastate originating access should be denied at this time.

III. Conclusion.

Wherefore, for the above stated reasons, the Cable Television and Communications Association of Illinois respectfully submits that the Illinois Commerce Commission should deny

the proposal by the Illinois Independent Telecommunications Association and Illinois Bell Telephone Company to the extent that it requests an increase to the Illinois universal service fund to recover revenues resulting from a decrease in intrastate originating access rates, a proposed amount of \$2,881,511. Correspondingly, IITA members would not be required to reduce their intrastate originating access rates to receive their other requested Illinois universal service fund relief and, therefore, would not be harmed by this partial denial of their Petition. The Commission should defer any further review of the reformation of intrastate originating access rates until the Federal Communications Commission issues its order in response to the current Notice of Proposed Rulemaking on intrastate originating access reform.

The Cable Television and Communications Association of Illinois takes no position on the Illinois Independent Telephone Association request for an increase in the Illinois universal service fund regarding basic elements.

Dated: September 14, 2012

Respectfully,

Cable Television and Communications
Association of Illinois

/s/

Michael W. Ward
John F. Ward, Jr.
Ward & Ward, P.C.
One Rotary Center
1560 Sherman Avenue
Suite 805
Evanston, IL 60201
224-420-9766
mward@dnsys.com
jward@levelerllc.com